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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	) Unbonded System for Strength Testing) of Concrete Masonry Units
Gary Workman	))
Serial No.: 10/712,943	) Group Art Unit: 1771)
Filed: November 13, 2003	) Examiner: Desai, Anish P.

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office action mailed March 23, 2006, applicant requests reconsideration and allowance.

Claims 1-21 are pending in the application, are rejected, and are at issue.

Applicant traverses the rejection of claim 1 as anticipated by Kaufman et al. U.S. Patent No. 5,102,710.

Independent claim 1 is directed to an unbonded capping system for strength testing of concrete masonry units comprising a test apparatus for strength testing of concrete masonry units. A rigid, rectangular foam board is of a size to be received on a face of a concrete masonry unit. A

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37 CFR 1.8
CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service, as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on June 23, 2006.

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plastic sheet is laminated to the rigid foam board and is engageable by the test apparatus, in use, with the rigid foam board engaging the face of the concrete masonry unit to provide even load distribution during testing.

An anticipation can be established only by a single prior art reference disclosing each and every element of the claim, arranged as in the claim. Kaufman et al. does not disclose or suggest a capping system for strength testing of concrete masonry units. It does not disclose or suggest a test apparatus for strength testing of concrete masonry units. It does not disclose a rigid, rectangular foam board of a size to be received on a face of a concrete masonry unit. It does not disclose or suggest a plastic sheet laminated to the rigid foam board and engageable by a test apparatus, in use, with the rigid foam board engaging the face of the concrete masonry unit to provide even low distribution during testing.

Kaufman et al. is directed to a composite decorative panel having a foam interior between a thermal plastic shell and a backer board of a fiber reinforced cement panel. Kaufman et al. discusses that strength testing can be performed on the panel. However, the panel is not used for strength testing of concrete masonry units. The action does not reference any teaching in Kaufman et al. for a test apparatus for strength testing of concrete masonry units. Strength testing of a decorative panel is not synonymous or remotely relevant to strength testing of concrete masonry units. Applicant's invention defined by claim 1 does not relate to compressive strength testing of a decorative panel. It relates to strength testing of concrete masonry units using a plastic sheet laminated to a rigid foam board, the plastic sheet being engageable by the test apparatus with the

rigid foam board engaging the face of the concrete masonry unit to provide even low distribution during testing of the concrete masonry unit.

Because Kaufman et al. does not disclose each and every element of claim 1, arranged as in claim 1, there is no anticipation and the rejection is improper. Moreover, because Kaufman et al. is not remotely relevant to the claimed invention any obviousness rejection would also be improper.

Applicant traverses the rejection of claims 1-21 as obvious over Hadley et al. U.S. Patent No. 3,545,263 in view of Peacock et al. U.S. Patent No. 4,534,225 and Muhm U.S. Patent No. 3,295,278.

The references, alone and in any proper combination, do not disclose or suggest an unbonded capping system including a plastic sheet laminated to a rigid board being engageable by a test apparatus, in use, with the rigid foam board engaging the face of the concrete masonry unit to provide even load distribution during testing. Indeed, the combination of the references is improper.

Hadley et al. is directed to a compression testing machine including platens for testing concrete blocks. Hadley et al. does not disclose or suggest any material disposed between the platens and the concrete block. Peacock et al. discloses end caps used in compression testing of cylinders including elastomeric pads to be received in the end caps. As admitted in the action, Peacock et al. does not disclose a plastic sheet or a foam board as an alternative to elastomeric pads. A described advantage of the use of elastomeric pads is that they are reusable as opposed to sulfur end caps or neoprene pads that are more quickly ruined. As such, Peacock et al. teaches away from use of a foam board, which would not be reusable.

Muhm does not disclose or suggest the deficiencies noted above. Muhm discloses a laminated load bearing structural panel of foam and plastic. These panels are described as structural elements for use in walls or roofs. There is no disclosure or suggestion that the panel be used in any type of compressive testing. Each of the embodiments described in Muhm surrounds a foam layer with a concrete layer. Each embodiment discloses the foam layer being sandwiched between two concrete layers.

It is not apparent why one skilled in the art would consider the substitution of the elastomeric pad of Peacock et al. with a structural element comprising concrete layers sandwiching a foam layer. This structure would not be reusable. Nor would it provide uniform load distribution during compressive tests. If such a panel was used for compressive testing, a concrete layer would be in contact with the concrete masonry unit. Peacock et al. teaches away from using a structure such as in Muhm. Moreover, Muhm does not suggest that the panel could be used as a component in strength testing of concrete masonry units.

For the above reasons, applicant submits that the combination is improper. Moreover, the combination does not result in the claimed invention as there is no disclosure or suggestion of a rigid, rectangular foam board to be received on the face of a concrete masonry unit laminated with a plastic sheet engageable by a test apparatus to provide even low distribution during testing.

The action also discusses laminating plastic film to rigid foam as being known. However, this is irrelevant as Muhm is directed to pre-stressed concrete panels including interior panels of plastic foam to provide reduced weight compared to an all concrete panel. There is no disclosure or suggestion regarding using plastic sheeting for this construction.

Because the references are not in the same field of endeavor and are not properly combinable, the obviousness rejection is improper and claim 1 should be allowed, as should dependent claims 2-6.

Independent claim 7 specifies an improvement in a testing system comprising a pair of compression pads each comprising a rigid, rectangular foam board and a plastic sheet laminated to the rigid foam board. Claim 7 and its dependent claims 8-12 are not obvious for the same reasons discussed above relative to claim 1.

Independent claim 13 specifies an improvement in a capping system for compression testing of CMU's including a pair of laminated compression pads. Each compression pad comprises a rigid, rectangular foam layer and a plastic sheet layer laminated to the rigid foam layer. Claim 13 and its dependent claims 14-18 are believed allowable for the same reasons discussed above relative to claim 1.

Independent claim 19 specifies an unbonded capping system comprising a pair of laminated compression pads each comprising a high density expanded polystyrene foam layer and a plastic sheet layer. Claim 19 and its dependent claims 20 and 21 are believed allowable for the same reasons discussed above relative to claim 1.

For the above reasons, Claims 1-21 are believed allowable and withdrawal of the rejection is requested.

Reconsideration of the application and allowance and passage to issue are requested.

Respectfully submitted,

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